

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DISH NETWORK L.L.C. and
SLING TV L.L.C.,

Plaintiffs,

VS.

JUAN BARCAN and
JUAN NAHUEL PEREYRA,
individually and collectively
d/b/a Live-nba.stream, Freefed.com,
Sportsbay.org, and Sportsbay.tv,

Defendants.

CIVIL ACTION NO.
4:21-cv-2384

JUDGE CHARLES ESKRIDGE

PLAINTIFFS' FIRST AMENDED COMPLAINT

1. Plaintiffs DISH Network L.L.C. (“DISH”) and Sling TV L.L.C. (“Sling”) bring this action against Defendants Juan Barcan and Juan Nahuel Pereyra, individually and collectively doing business as Live-nba.stream, Freefed.com, Sportsbay.org, and Sportsbay.tv (collectively, the “Sportsbay Websites”) for circumventing and providing technologies and services that circumvented the security measures employed by Sling, and thereby provided DISH’s television programming to users of the Sportsbay Websites (“Sportsbay users”) without authorization. Defendants’ actions violated the Digital Millennium Copyright Act, 17 U.S.C. § 1201.

NATURE OF THE ACTION

2. DISH and Sling are television service providers that deliver programming live and on demand to millions of authorized, fee-paying subscribers in the United States using security technologies provided by content protection providers. Defendants operated an illicit

streaming service through the Sportsbay Websites, whereby Defendants offered Sportsbay users free access to Sling's internet transmissions of television programming by providing the means to decrypt and acquire it without authorization.

PARTIES

3. Plaintiff DISH Network L.L.C. is a limited liability company organized under the laws of the State of Colorado, with its principal place of business in Englewood, Colorado.

4. Plaintiff Sling TV L.L.C. is a Colorado limited liability company having its principal place of business in Englewood, Colorado.

5. Defendant Juan Barcan is an individual residing in Buenos Aires, Argentina that owned and operated the Live-nba.stream, Freefeds.com, Sportsbay.org, and Sportsbay.tv domains and websites. Barcan used his PayPal account to make payments to domain registrar Namecheap and GitHub for the Sportsbay Websites. Barcan operated the Sportsbay Websites with CloudFlare, GitHub, and Google accounts.

6. Defendant Juan Nahuel Pereyra is an individual residing in Buenos Aires, Argentina that owned and operated the Live-nba.stream, Freefeds.com, Sportsbay.org, and Sportsbay.tv domains and websites. Pereyra used his PayPal account to make payments to domain registrar Namecheap for the Sportsbay Websites. Pereyra operated the Sportsbay Websites with CloudFlare and Google accounts.

7. The Sportsbay Websites had similarities among their domain registrars and service providers. Each of the Sportsbay Websites used CloudFlare, Inc. as a reverse proxy, pass-through security service. Sportsbay.org, Sportsbay.tv, and Live-nba.stream each had the same Google Analytics ID, UA-187547947. Live-nba.stream and Freefeds.com each used

Namecheap Inc. as the registrar and privacy protection service for the domains. Sportsbay.org used Namecheap Inc. as the registrar and privacy protected service before September 19, 2020.

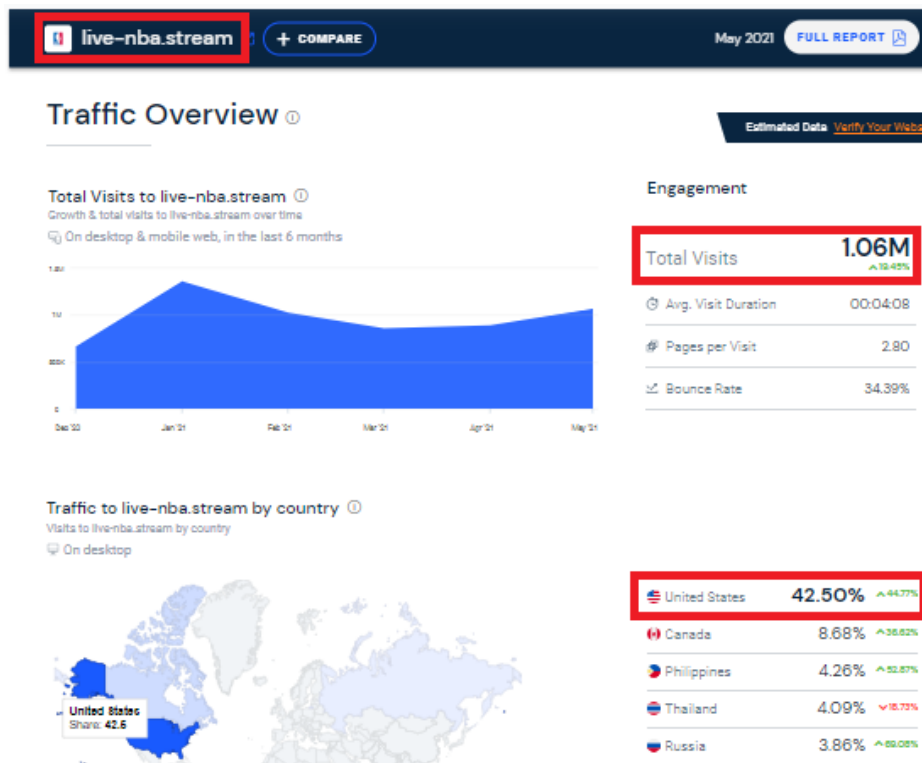
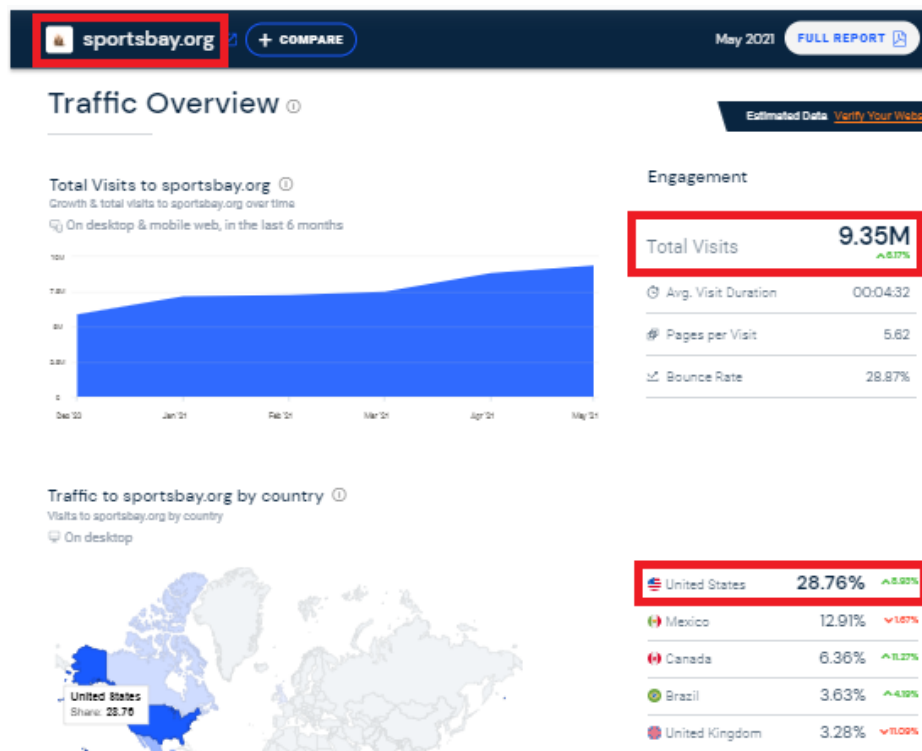
JURISDICTION AND VENUE

8. DISH and Sling are claiming violations of the Digital Millennium Copyright Act, 17 U.S.C. § 1201 (“DMCA”). Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.

9. Defendants are subject to personal jurisdiction in this Court because they have each purposefully directed their conduct towards, and have each purposefully availed themselves of the privileges of conducting business activities within the State of Texas by providing their infringing technologies and services to Sportsbay users in the State of Texas, circumventing the security measures employed by Sling, and thereby allowing Sportsbay users to receive DISH’s television programming without authorization and harming DISH and Sling in the State of Texas.

10. In the alternative, personal jurisdiction is proper against Defendants under Rule 4(k)(2) of the Federal Rules of Civil Procedure. Defendants provided Sportsbay users in the United States with technologies and services circumventing the security measures employed by Sling, and thereby allowing the Sportsbay users to receive DISH’s television programming without authorization and harming DISH and Sling in the United States. This Court’s exercise of jurisdiction over Defendants is consistent with the Constitution and laws of the United States, the claims of DISH and Sling arise under federal law, and Defendants reside outside the United States and are not subject to the jurisdiction of the courts of general jurisdiction of

any state. The United States was a high source of traffic for the Sportsbay Websites as shown by the following reports from Similarweb.com:



11. Venue is proper in this Court under 28 U.S.C. § 1391(b)(3) because Defendants are subject to personal jurisdiction in this district and under § 1391(c)(3) because, upon information and belief, Defendants are nonresidents that may be sued in any judicial district. Venue is also appropriate in this Court under 28 U.S.C. § 1400(a) because DISH and Sling assert claims relating to the protection of copyrighted works.

DISH AND SLING TELEVISION PROGRAMMING

12. DISH is the fourth largest pay-television provider in the United States and delivers television programming to millions of subscribers nationwide.

13. Sling is a subsidiary of DISH and a pay-television provider in the United States that delivers television programming to millions of subscribers nationwide using the public internet (“Sling Programming”). Sling’s internet transmissions of Sling Programming are secured using digital rights management (“DRM”) technologies that include, based on the subscriber’s viewing platform, Google’s Widevine DRM, Apple’s FairPlay DRM, and Microsoft’s PlayReady DRM. Each DRM has a key-based encryption and decryption process used to make Sling Programming accessible to only authorized Sling subscribers that purchased access to that Sling Programming and restricts unauthorized access to, copying, and retransmission of Sling Programming.

14. DISH and Sling broadcast, among other things, movies, sports, and general entertainment services to consumers who have been authorized to receive such services after paying a subscription fee, or in the case of a pay-per-view movie or event, the purchase price.

15. DISH contracts for and purchases distribution rights for most of the programming that is broadcast on the Sling platform, including Sling Programming, from

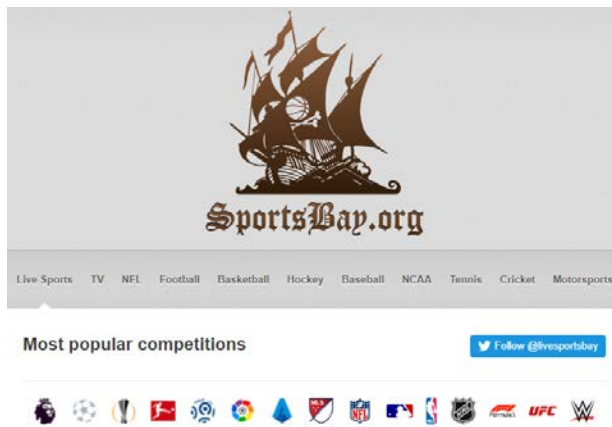
network affiliates, motion picture distributors, pay and specialty broadcasters, cable networks, sports leagues, and other holders of programming rights. The works broadcast by Sling are copyrighted.

DEFENDANTS' PIRACY OF SLING PROGRAMMING

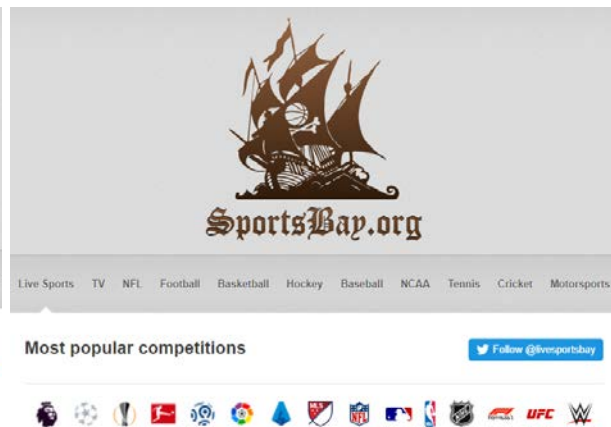
16. Defendants operated the Sportsbay Websites that circumvented the protections provided by Sling's DRM technologies, and thereby provided Sling Programming to Sportsbay users without authorization from Sling or DISH.

17. Sportsbay.org was the main website accessed by Sportsbay users. Sportsbay.tv was a mirror image of Sportsbay.org. The following screenshots show the top portion of the home pages of the Sportsbay.org and Sportsbay.tv websites, including links for Sportsbay users to access various types of television programming:

Sportsbay.org



Sportsbay.tv



18. The bottom portion of the home pages of Sportsbay.org and Sportsbay.tv included a section titled “Free Live Sports Streams,” and each stated, “This is a free sports live streaming website that provides multiple links to watch any match from any sport event live,

securely and free” and “Stream sports live from channels like Sky Sports, Fox Sports, NBA TV, NFL Network, ESPN, TNT, NBCSports and many other world sport TV Channels.”

Free Live Sports Streams

This is a free sports live streaming website that provides multiple links to watch any match from any sport event live, securely and free.

We offer the best Basketball, Tennis, Football and every sport streams in HD without subscription. Watch any soccer competition online from your mobile, tablet, Mac or PC.

Stream sports live from channels like Sky Sports, Fox Sports, NBA TV, NFL Network, ESPN, TNT, NBCSports and many other world sport TV Channels.

19. When Sportsbay users clicked on the “TV” link from the home pages of Sportsbay.org and Sportsbay.tv they were redirected to <https://sportsbay.org/sports/tv-channels> or <https://sportsbay.tv/sports/tv-channels>, which included links to receive at least 97 “US TV Channels.” The following screenshot shows the top portion of this page:

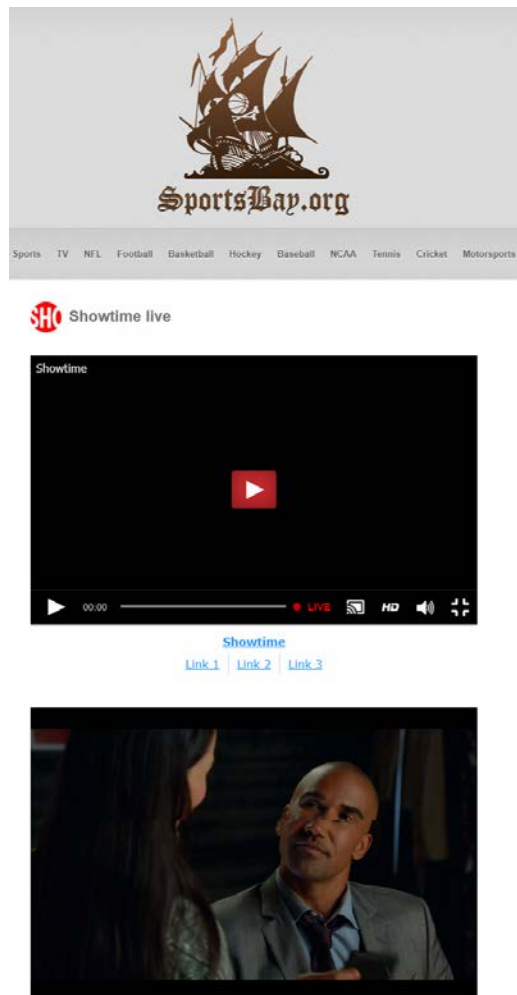
Stream TV Channels Live

Watch TV Channels online. Stream TV Channels live. No Blackouts. No signup. High quality video streaming free on SportsBay.

Friday, January 18, 2019

03:00			US TV Channels		ESPN USA
03:00			US TV Channels		ESPN BR
03:01			US TV Channels		ESPN 2
03:02			US TV Channels		Fox Sports 1
03:03			US TV Channels		Fox Sports 2
03:04			US TV Channels		NFL Red Zone
03:04			US TV Channels		NFL Network
03:05			US TV Channels		NHL Network
03:06			US TV Channels		NBA TV
03:07			US TV Channels		MLB Network
03:08			US TV Channels		WWE Network
03:09			US TV Channels		Showtime
03:09			US TV Channels		USA Network
03:10			US TV Channels		FOX (WNYW)

20. When Sportsbay users clicked on many of the links to the US TV Channels they received Sling Programming, including the following channel links: AHC, AMC, BBC America, BeinSports4, BeinSports5, BeinSports6, BeinSports7, BeinSports8, Bravo, Buzzr, CNBC, CNN, Comedy Central, Discovery Channel, ESPN Deportes, Freeform, FYI, Golf Channel, History Channel, MLB Network, National Geographic, NBC, NBC Sports, NBC Sports California, NFL Redzone, Showtime, SundanceTV, SyFy, TBS, TLC, USA Network, VH1, and WeatherNation. The following screenshot shows a Sportsbay user receiving Sling Programming for the Showtime channel at <https://sportsbay.org/watch/77870/1/shotwime-live.html>:



21. Defendants provided information on Sportsbay.org and Sportsbay.tv about their technologies and services at the bottom portion of each of the channel's pages. Defendants stated you can "Watch from anywhere online and free. No sign-up or credit card required," they provide "Free TV Channels 24/7 . . . High quality US TV Channels broadcasts, secure & free", and "On this site you'll able to watch US TV Channels streams easy and lag-free. It doesn't matter where you are, our TV channels streams are available worldwide." Defendants also provided the iframe code to embed Sling Programming on other websites. The following screenshot shows the information provided at the bottom portion of the Showtime channel page at <https://sportsbay.org/watch/77870/1/showtime-live.html>:

Where to watch Showtime live streaming

Stream Showtime live on SportsBay. Watch from anywhere online and free. No sign-up or credit card required.

We offer you the best live streams to watch US TV Channels in HD.

Free TV Channels 24/7 on your computer or mobile. High quality US TV Channels broadcasts, secure & free.

Here you will find mutiple links to access Showtime live at different qualities.

Watch Showtime live and free

This Showtime live stream is available on all mobile devices, tablet, smart TV, PC or Mac.

On this site you'll able to watch US TV Channels streams easy and lag-free. It doesn't matter where you are, our TV Channels streams are available worldwide.

Embed this event in your website

```
<iframe allow='encrypted-media' width='640' height='360' marginwidth='0'
marginheight='0' scrolling='no' frameborder='0' allowfullscreen='yes'
src='//sportsbay.org/embed/77870/1/showtime-live.html'></iframe>
```

22. When a Sportsbay user selected or clicked on a channel on Sportsbay.org or Sportsbay.tv, the websites connected to Defendants' Freefeeds.com website by embedding content originating from a Freefeeds.com Uniform Resource Locator ("URL"). The following

iframe code on the Sportsbay.org website shows an example of it embedding the Showtime channel originating from the Freefed.com website:

```

...
<div class="player">
  <iframe id="streamIframe" name="streamframe" width="640" height="420" allowfullscreen="yes"
  marginwidth="0" marginheight="0" scrolling="no" src="https://freefed.com/stream/77870.html"
  frameborder="0" allow="encrypted-media">...</iframe> == $0
</div>
<p> </p>
<h3>Where to watch Showtime live streaming</h3>

```

23. The Freefed.com iframe then accessed the encrypted Sling Programming originating from Sling's computer server assigned to the Movetv.com domain, and delivered it to the embedded iframe on the Sportsbay.org or Sportsbay.tv websites. The following network traffic analysis on the Sportsbay.org website shows an example of this for the Showtime channel:

```

    "functionName": "",
    "scriptId": "71",
    "url": "https://freefed.com/stream/77870.html",
    "lineNumber": 155,
    "columnNumber": 35472
  }
}
}
},
{
  "_priority": "High",
  "_resourceType": "xhr",
  "cache": {},
  "connection": "129288",
  "request": {
    "method": "GET",
    "url": "https://p-cdn3-1-607-cg15-linear-cbd46b77.movetv.com/clipslist/791/20210701T200000Z/20210701T230000Z.mpd",
    "httpversion": "HTTP/1.1",
    "headers": [
      {
        "name": "Host",
        "value": "p-cdn3-1-607-cg15-linear-cbd46b77.movetv.com"
      },
      {
        "name": "Connection",
        "value": ""
      }
    ]
  }
}

```

24. The Freefed.com iframe then connected to Defendants' Live-nba.stream computer server in order to obtain the DRM keys necessary to decrypt the Sling

Programming so that it was displayed on the Sportsbay.org and Sportsbay.tv websites. The following network traffic analysis on the Sportsbay.org website shows an example of this for the Showtime channel:

```

{
  "priority": "High",
  "resourceType": "xhr",
  "cache": {},
  "request": {
    "method": "POST",
    "url": "https://live-nba.stream/drm/proxyA.php",
    "httpVersion": "HS-29",
    "headers": [
      {
        "name": ":method",
        "value": "POST"
      },
      {
        "name": ":authority",
        "value": "live-nba.stream"
      },
      {
        "name": ":scheme",
        "value": "https"
      },
      {
        "name": ":path",
        "value": "/drm/proxyA.php"
      },
      {
        "name": "content-length",
        "value": "37"
      },
      {
        "name": "sec-ch-ua",
        "value": "\" Not;A Brand\";v=\"99\", \"Google Chrome\";v=\"91\", \"Chromium\";v=\"91\""
      },
      {
        "name": "sec-ch-ua-mobile",
        "value": "?0"
      },
      {
        "name": "user-agent",
        "value": "Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/91.0.4472.124 Safari/537.36"
      },
      {
        "name": "content-type",
        "value": "text/plain;charset=UTF-8"
      },
      {
        "name": "accept",
        "value": "*/ *"
      },
      {
        "name": "origin",
        "value": "https://freefeds.com"
      },
      {
        "name": "sec-fetch-site",
        "value": "cross-site"
      },
      {
        "name": "sec-fetch-mode",
        "value": "cors"
      },
      {
        "name": "sec-fetch-dest",
        "value": "empty"
      },
      {
        "name": "referrer",
        "value": "https://freefeds.com/stream/77870.html"
      }
    ]
  }
}

```

25. Defendants provided free access to television programming, including Sling Programming, to attract more users to the Sportsbay.org and Sportsbay.tv websites. Defendants monetized the Sportsbay.org and Sportsbay.tv websites through advertising on these websites. Defendants did so without authorization from DISH or Sling.

CLAIMS FOR RELIEF

COUNT I

Circumventing Technological Measures in Violation of the DMCA, 17 U.S.C. § 1201(a)(1)(A)

26. DISH and Sling repeat and reallege the allegations in paragraphs 1-25.

27. Sling uses technological protection measures, including its DRM technologies, to effectively control access to Sling Programming, which includes works protected under the Copyright Act. Sling implements these technological protection measures with the copyright owners' consent.

28. Defendants circumvented Sling's DRM technologies protecting Sling Programming each time they obtained the DRM keys necessary to decrypt the Sling Programming and each time a DRM key was sent to them by using the Sportsbay Websites to display Sling Programming during testing and for Defendants' own viewing pleasure without authorization from Sling or DISH.

29. Defendants willfully violated 17 U.S.C. § 1201(a)(1)(A) for the purpose of commercial advantage and private financial gain. Defendants knew or should have known that their actions were illegal and prohibited.

30. Defendants' violations caused damage to DISH and Sling in an amount to be determined.

31. Unless enjoined by the Court, Defendants may continue to engage in acts causing substantial and irreparable injury to DISH and Sling that includes damage to their reputation, loss of goodwill, and lost sales, for which there is no adequate remedy at law.

COUNT II

Trafficking in Circumvention Technology and Services in Violation of the DMCA, 17 U.S.C. § 1201(a)(2)

32. DISH and Sling repeat and reallege the allegations in paragraphs 1-25.

33. Defendants have manufactured, imported, offered to the public, provided, and otherwise trafficked in technologies and services in violation of 17 U.S.C. § 1201(a)(2), including through their operation of the Sportsbay Websites that allowed Sportsbay users to circumvent the security measures employed by Sling's DRM technologies protecting Sling Programming, and thereby receive Sling Programming without authorization from Sling or DISH.

34. Defendants' technologies and services were primarily designed and produced to circumvent DRM technology security measures employed by Sling; had no commercially significant purpose or use other than circumventing those security measures; and were marketed by Defendants and others known to be acting in concert with them for use in circumventing those security measures.

35. The security measures employed by Sling, which include DRM technologies, effectively control access to, copying, and distribution of copyrighted works. Defendants' actions that constitute violations of 17 U.S.C. § 1201(a)(2) were performed without the

authorization or consent of DISH, Sling, or, upon information and belief, any owner of the copyrighted content broadcast by DISH and Sling. DISH and Sling are authorized to protect the copyrighted content broadcast on the Sling platform from unauthorized viewing.

36. Defendants are liable for violations of 17 U.S.C. § 1201(a)(2) for each user of the Sportsbay Websites.

37. Defendants willfully violated 17 U.S.C. § 1201(a)(2) for the purpose of commercial advantage and private financial gain. Defendants knew or should have known that their actions were illegal and prohibited.

38. Defendants' violations caused damage to DISH and Sling in an amount to be determined.

39. Unless enjoined by the Court, Defendants may continue to engage in acts causing substantial and irreparable injury to DISH and Sling that includes damage to their reputation, loss of goodwill, and lost sales, for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, DISH and Sling seek judgment against Defendants as follows:

A. For a grant of permanent injunctive relief restraining and enjoining Defendants, and any of their officers, agents, servants, employees, attorneys, or any other persons acting in active concert or participation with any of the foregoing that receives actual notice of the order, from:

1. circumventing a DRM or any other technological protection measure that controls access to Sling Programming, including through the Sportsbay Websites or any similar website or internet streaming service;

2. manufacturing, importing, offering to the public, providing, or otherwise trafficking in any technologies or services, including the Sportsbay Websites, or any other service, technology, product, device, component, website, or part thereof that:

a. is primarily designed or produced for circumventing a technological measure employed by DISH or Sling that controls access to, copying, or the distribution of copyrighted works;

b. has only limited commercially significant purpose or use other than circumventing a technological measure employed by DISH or Sling that controls access to, copying, or the distribution of copyrighted works;

c. is marketed to circumvent a technological measure employed by DISH or Sling that controls access to, copying, or the distribution of copyrighted works;

3. receiving or assisting others in receiving Sling's internet transmissions;
and

4. selling, leasing, licensing, assigning, conveying, distributing, loaning, encumbering, pledging, or otherwise transferring, whether or not for consideration or compensation, any part of their infringing operations.

B. For an order permanently transferring each domain name that Defendants used in connection with the infringement to DISH or Sling.

C. Award DISH and Sling the greater of their actual damages together with any profits of Defendants attributable to the violations alleged here, or statutory damages of up to \$2,500 for each violation of 17 U.S.C. §§ 1201(a)(1)(A) and 1201(a)(2), under 17 U.S.C. §§ 1203(c)(2) and 1203(c)(3)(A);

D. Award DISH and Sling their costs, attorney's fees, and investigative expenses under 17 U.S.C. § 1203(b)(4)-(5);

E. For a full and accurate accounting of all profits and other benefits received by Defendants as a result of the wrongful conduct described here;

F. For pre and post-judgment interest on all damages awarded, from the earliest date permitted by law at the maximum rate permitted by law;

G. For such additional relief as the Court deems just and equitable.

Dated: January 11, 2022.

Respectfully submitted,

HAGAN NOLL & BOYLE LLC

By: /s/ Stephen M. Ferguson
Stephen M. Ferguson (attorney-in-charge)
Texas Bar No. 24035248
Southern District of Texas Bar No. 614706
Two Memorial City Plaza
820 Gessner, Suite 940
Houston, Texas 77024
Telephone: (713) 343-0478
Facsimile: (713) 758-0146

Joseph H. Boyle (of counsel)
Texas Bar No. 24031757
Southern District of Texas Bar No. 30740

**Counsel for Plaintiffs DISH Network L.L.C.
and Sling TV L.L.C.**